

**FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

ANGELICA FARFAN, INDIVIDUALLY	§	
AND ON BEHALF OF THE ESTATE OF	§	
ERIC PEREZ ESCOTO, DECEASED,	§	
AND AS WRONGFUL DEATH	§	
BENEFICIARY OF ERIC PEREZ	§	
ESCOTO, DECEASED AND AS NEXT	§	
FRIEND OF Z.P. AND A.P., MINORS	§	
AND MIGUEL ANGEL PEREZ AND	§	
JOSEFINA ESCOTO	§	
PLAINTIFFS,	§	
	§	
VS.	§	CIVIL ACTION NO. 4:23-cv-03470
	§	
OLD DOMINION FREIGHT LINE, INC.	§	
DEFENDANT.	§	

INDEX OF MATTERS BEING FILED

Defendant, OLD DOMINION FREIGHT LINE, INC. (“Defendant”), in connection with the removal of this case to the United States District Court for the Southern District of Texas, Houston Division, files its index of matters, as follows:

1. Notice of Removal.
2. Harris County Docket Sheet.
3. All pleadings on file in the district court action.
4. All executed process in the district court action.
5. List of Counsel of Record.

Respectfully submitted,



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**ATTORNEY FOR DEFENDANT,
OLD DOMINION FREIGHT LINE, INC.**

**OF COUNSEL:
MAYER LLP**

CERTIFICATE OF SERVICE

On this 15th day of September, 2023, a true and correct copy of the foregoing instrument was served electronically, in person, by mail, by commercial delivery service, by fax, or by email, to the following counsel of record:

Clay Miller
Josh Birmingham
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Dallas, Texas 75243
Email: cmiller@millerweisbrod.com
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Ryan T. Hand

EXHIBIT 2

2023-55466

COURT: 055th

FILED DATE: 8/21/2023

CASE TYPE: Motor Vehicle Accident



**FARFAN, ANGELICA (INDIVIDUALLY AND ON BEHALF OF
THE ESTATE OF ERIC**

Attorney: MILLER, CHARLES CLAYTON

VS.

OLD DOMINION FREIGHT LINE INC

Docket Sheet Entries	
Date	Comment

EXHIBIT 3

2023-55466 / Court: 55

CAUSE NO. _____

ANGELICA FARFAN, INDIVIDUALLY	§	IN THE DISTRICT COURT OF
AND ON BEHALF OF THE ESTATE OF	§	
ERIC PEREZ ESCOTO, DECEASED,	§	
AND AS WRONGUL DEATH	§	
BENEFICIARY OF ERIC PEREZ	§	
ESCOTO, DECEASED AND AS NEXT	§	
FRIEND OF Z.P. AND A.P., MINORS	§	____ JUDICIAL DISTRICT
AND MIGUEL ANGEL PEREZ AND	§	
JOSEFINA ESCOTO	§	
PLAINTIFFS,	§	
	§	
VS.	§	
	§	
OLD DOMINION FREIGHT LINE, INC.	§	
DEFENDANT.	§	HARRIS COUNTY, TEXAS

PLAINTIFFS' ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

Comes Now, Plaintiffs, **ANGELICA FARFAN, INDIVIDUALLY AND ON BEHALF OF THE ESTATE OF ERIC PEREZ ESCOTO, DECEASED AND AS WRONGUL DEATH BENEFICIARY OF ERIC PEREZ ESCOTO, DECEASED AND AS NEXT FRIEND OF Z. P. AND A. P., MINORS AND MIGUEL ANGEL PEREZ AND JOSEFINA ESCOTO**, complaining of Defendant, **OLD DOMINION FREIGHT LINE, INC.** (hereinafter referred to as "Old Dominion"), and would respectfully show this Honorable Court as follows:

1.00 LEVEL OF DISCOVERY CONTROL PLAN

1.01 Pursuant to Texas Rule of Civil Procedure 190.1, discovery is intended to be conducted under Level 3 of Rule 190.4 of the Texas Rules of Civil Procedure.

2.00 PARTIES

2.01 Plaintiff **ANGELICA FARFAN** is a resident of Harris County, Texas. Pursuant to Tex. Civ. P. & Rem Code 30.14(a), the last three digits of Plaintiff's Social Security number are: NONE.

2.02 Plaintiff **MIGUEL ANGEL PEREZ** is a resident of Harris County, Texas. Pursuant to Tex. Civ. P. & Rem Code 30.14(a), the last three digits of Plaintiff's Social Security number are: NONE.

2.03 Plaintiff **JOSEFINA ESCOTO** is a resident of Harris County, Texas. Pursuant to Tex. Civ. P. & Rem Code 30.14(a), the last three digits of Plaintiff's Social Security number are: NONE.

2.04 Defendant **OLD DOMINION FREIGHT LINE, INC.** is a foreign corporation and should be served with citation through its registered agent, CT Corporation System, 1999 Bryan ST., Suite 900, Dallas, Texas 75201. **PLAINTIFFS REQUESTS THAT CITATION BE ISSUED.**

3.00 JURISDICTION AND VENUE

3.01 The amount in controversy is within the jurisdictional limits of this Court.

3.02 Harris County is the proper venue for this action pursuant to the Texas Civil Practice and Remedies Code, Section 15.001, *et seq.*, because Harris County is the county in which the cause of action occurred.

3.03 Pursuant to Rule 47(c) Plaintiff is seeks monetary relief over \$1,000,000.

4.00 FACTUAL STATEMENT

4.01 On or about December 6, 2022, Eric Perez Escoto, Decedent, was traveling westbound on Spencer Road (FM 529) in Harris County, Texas when a vehicle carrying a load for Defendant Old Dominion disregarded the stop sign and entered the intersection at a high rate of

speed directly in front of decedent causing a collision with the decedent's vehicle. Unfortunately, Eric Perez Escoto suffered catastrophic injuries in the violent crash. The trauma of the impact caused him to suffer prolonged pain and suffering before ultimately resulting in his death.

4.02 Defendant is a motor carrier (DOT Number 90849) and decided to hire this load out instead of carrying the load itself. Defendant entered an agreement with Just Van, the employer of Jesus Anduju to haul the load. Mr. Anduju's tractor-trailer was the vehicle that disregarded the stop sign causing the wreck that led to the death of Eric Perez.

4.03 The negligence and gross negligence of the Defendant was the proximate cause of the injuries to and resulting death of Eric Perez Escoto.

4.04 Plaintiff, Angelia Farfan, is the wife of Eric Perez Escoto, deceased.

4.05 Minors, Z [REDACTED] P [REDACTED] and A [REDACTED] P [REDACTED], are the natural biological children of Eric Perez Escoto, deceased.

4.06 Plaintiffs, Miguel Angel Perez and Josefina Escoto, are the natural biological parents of Eric Perez Escoto, deceased.

5.00 NEGLIGENCE: DEFENDANT OLD DOMINION FREIGHT LINE, INC.

5.01 Defendant OLD DOMINION FREIGHT LINE, INC. is independently liable for its own acts and/or omissions, which constituted negligence as that term is defined by law. Defendant did not possess and comply with reasonable care ordinarily possessed and used by similar entities, engaged in the same type of service in the same or in a similar locality. The acts and/or omissions include, but are not limited to, the following

- a. In negligently hiring Just Van and Jesus Anduju;
- b. In negligently entrusting the load to Just Van and Jesus Anduju;
- c. In negligently qualifying Just Van and Jesus Anduju;

- d. In failing to train and supervise Just Van and Jesus Anduju;;
- e. In failing to monitor Just Van and Jesus Anduju;
- f. In failing to have adequate policies and procedures;
- g. In negligently loading and dispatching Just Van and Jesus Anduju; and
- h. In failing to exercise its retained control in a reasonable manner.

5.02 Plaintiff would further show that Defendant OLD DOMINION FREIGHT LINE, INC. is liable for the acts and omissions of its employee and/or statutory employee Jesus Anduju under the doctrine of Respondent Superior.

5.03 The above-referenced acts or omissions, whether taken separately or cumulatively, were a proximate cause of this collision and the resulting injuries and damages sustained by the Plaintiff.

6.00 GROSS NEGLIGENCE

6.01 Plaintiffs would show that the actions of the Defendant individually, and/or by and through their agents, employees, vice-principals, management and officers set out in Section 5.00, were heedless and reckless and evidence an entire want of care constituting an actual conscious indifference for the rights, safety and welfare of Plaintiff and others similarly situated. These heedless and reckless acts and/or omissions were done with an actual, subjective awareness of the risks involved and these risks, when viewed from the standpoint of an objective person, involved an extreme degree of risk due to the probability and magnitude of the potential harm to others. Furthermore, Plaintiffs would show that the actions of the Defendants, individually, and/or by and through their agents, employees, vice-principals, management, and officers, set out in Sections 5.00 above, were performed with a flagrant disregard for the rights of others and with an actual awareness on the part of the Defendants that the acts would, in reasonable probability, result in

human death or great bodily harm. These acts and omissions, on the part of the Defendants, whether taken separately or together, were a proximate cause of the damages and injuries resulting in the serious injuries of Plaintiffs.

7.00 DAMAGES: ANGELICA FARFAN

7.01 During his lifetime, Eric Perez Escoto, was industrious, affectionate, loving, compassionate, energetic, cooperative, patient, attentive, and a good husband to Angelica Farfan. He gave guidance, advice, counsel, protection, comfort, support services, care and attention to his wife, his children and his family. His death has deprived Angelica Farfan of the love and society of her husband and the right to that affection, the loss of care, maintenance, support services, solace, comfort, companionship, consortium, loss of earnings household services, and reasonable contributions of a pecuniary value in reasonable probability she would have received from Eric Perez Escoto had he lived; and mental anguish as a result of the death of Eric Perez Escoto.

7.02 These damages have been suffered in the past, and in reasonable probability, will continue to be suffered in the future.

8.00 DAMAGES: Z [REDACTED] P [REDACTED] AND A [REDACTED] P [REDACTED], MINOR CHILDREN

8.01 During his lifetime, Eric Perez Escoto, was industrious, affectionate, loving, compassionate, energetic, cooperative, patient, attentive, and a good parent and provider to Z [REDACTED] P [REDACTED] and A [REDACTED] P [REDACTED] minors. He gave guidance, advice, counsel, protection, comfort, services, care and attention to his children. His death has deprived his children of the love and society of their father, the right to that affection, solace, comfort, companionship, and assistance.

8.02 Eric Perez Escoto was a good parent and provided care, advice, maintenance, services, counsel, education, support and training for his children. His death has caused his

children to suffer the loss of her care, advice, maintenance, services, counsel, education, support and training. Further, Z [REDACTED] P [REDACTED] and A [REDACTED] P [REDACTED] have lost the love, affection and society, support and companionship of their father.

8.03 As a result of the above-described negligence of Defendants, which was the proximate cause of the injuries and death of Eric Perez Escoto, Z [REDACTED] P [REDACTED] and A [REDACTED] P [REDACTED] have suffered certain losses for which they now bring suit.

8.04 The injuries and subsequent death of Eric Perez Escoto has caused Z [REDACTED] P [REDACTED] and A [REDACTED] P [REDACTED] to have suffered the loss of care, maintenance, loss of household services and loss of earnings capacity, support services, advice, counsel and reasonable contributions of a pecuniary value in reasonable probability they would have received from Eric Perez Escoto had he lived; loss of inheritance, loss of companionship and society, and mental anguish as a result of the death of Eric Perez Escoto.

9.00 DAMAGES: MIGUEL ANGEL PEREZ AND JOSEFINA ESCOTO

9.01 Plaintiffs, Miguel Angel Perez and Josefina Escoto, as the surviving natural parents of Eric Perez Escoto, as a direct, proximate and foreseeable result of the above referenced acts and/or omissions of the Defendants, taken singularly or in conjunction with each other, sustained damages in their rights, and pursuant to Chapter 71 of the Texas Civil Practice and Remedies Code, hereby seek the following elements of damages, both in the past and in the future:

- a) Pecuniary loss;
- b) Loss of companionship and society; and
- c) Mental anguish.

10.00 DAMAGES: ESTATE OF ERIC PEREZ ESCOTO

10.01 Eric Perez Escoto suffered horrendous conscious pain and suffering. His injuries caused a slow painful death.

10.02 The estate of Eric Perez Escoto has incurred medical, funeral and burial expenses as a result of his death.

11.00 EXEMPLARY DAMAGES

11.01 The conduct of the Defendants constituted a conscious and flagrant disregard for the rights of others and with actual awareness on the part of said Defendants that their acts and omissions would, in reasonable probability, result in human injury, great bodily harm or property damage, justifying the imposition of punitive/exemplary damages, and said acts were a cause, and/or proximate cause and/or producing cause of the injuries and damages in question. As a result, Defendants should be required to pay exemplary and/or punitive damages.

12.00 JURY DEMAND

12.01 Plaintiffs respectfully requests that the trial of this cause be by jury and Plaintiffs will tender the requisite jury fee.

13.00 PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiffs respectfully requests that Defendants be cited to appear and answer herein and that upon full and final hearing of this cause, Plaintiff has judgment of and from the Defendants as follows:

- 1) For all actual and punitive damages, both past and future, as prayed for herein, including damages;
1. For Plaintiff's costs of court;
2. For pre-judgment interest at the highest legal rate and for the longest period of time

allowed by law on all elements of damage claimed herein;

3. For post-judgment interest at the highest legal rate allowed by law on the amount of the judgment entered by the Court from the date of judgment until collected;
4. For such other and further relief, both general and specific, at law or in equity, to which this Honorable Court should find Plaintiff to be justly entitled.

Respectfully submitted,

MILLER WEISBROD OLESKY, LLP

By: /s/ Clay Miller

CLAY MILLER

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ATTORNEYS FOR PLAINTIFF

EXHIBIT 4

RETURN OF SERVICE**State of Texas****County of Harris****55th District Court**

Case Number: 202355466

Plaintiffs:

ANGELICA FARFAN, et al.

vs.

Defendant:

OLD DOMINION FREIGHT LINE, INC.

Received these papers on the 23rd day of August, 2023 at 11:25 am to be served on **Old Dominion Freight Line, Inc. C/O C.T. Corporation System: Registered Agent, 1999 Bryan St., Suite 900, Dallas, Dallas County, TX 75201.**

I, Norman Lee Collins, do hereby affirm that on the **25th day of August, 2023 at 1:17 pm, I:**

Delivered to the within named Corporation a true copy of the Citation with Plaintiffs' Original Petition with the date of delivery endorsed thereon by me, to C.T. Corporation System as Registered Agent and personally delivered to their designated agent for acceptance of delivery of process Shaina Fenimore and informing said person of the contents thereof.

"My name is Norman Lee Collins. My date of birth is 10/11/1963. My address is 18601 LBJ Freeway, Suite 650, Mesquite, Texas 75150, USA. I declare under the penalty of perjury that the foregoing is true and correct. Executed in Dallas County, State of Texas, on the 25th day of August, 2023."

**Norman Lee Collins**

PSC360; EXP. 7/31/2024

Our Job Serial Number: PEL-2023003127



EXHIBIT 5

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

**ANGELICA FARFAN, INDIVIDUALLY §
AND ON BEHALF OF THE ESTATE OF §
ERIC PEREZ ESCOTO, DECEASED, §
AND AS WRONGFUL DEATH §
BENEFICIARY OF ERIC PEREZ §
ESCOTO, DECEASED AND AS NEXT §
FRIEND OF Z.P. AND A.P., MINORS §
AND MIGUEL ANGEL PEREZ AND §
JOSEFINA ESCOTO §
PLAINTIFFS, §**

VS. §

CIVIL ACTION NO. 4:23-cv-03470

**OLD DOMINION FREIGHT LINE, INC. §
DEFENDANT. §**

LIST OF COUNSEL OF RECORD

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Respectfully submitted,



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**ATTORNEY FOR DEFENDANT,
OLD DOMINION FREIGHT LINE, INC.**

**OF COUNSEL:
MAYER LLP**

CERTIFICATE OF SERVICE

On this 15th day of September, 2023, a true and correct copy of the foregoing instrument was served electronically, in person, by mail, by commercial delivery service, by fax, or by email, to the following counsel of record:

Clay Miller
Josh Birmingham
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